

**Notice of Allowability**

Application No.

10/716,770

Examiner

Nikita Wells

Applicant(s)

GUILLORN ET AL.

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to "Response to Office Action Dated: June 9, 2005" received 9 November 2005.
2.  The allowed claim(s) is/are 24-46, 71-84 and 86-95.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some\* c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 14 November 2005
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

Nikita Wells  
Primary Examiner  
Art Unit: 2881

## DETAILED ACTION

### *Allowable Subject Matter*

1. Claims 24-46, 71-84, and 86-95 are allowed.
2. The following is an examiner's statement of reasons for allowance:

The Applicant amended claims 24-33, 35-36, 38-40, 42, 46, 71-80, 82-83, 86-89, 91, and 95, canceled claim 85, and presented arguments in favor of allowance of the claims according to the "Response to Office Action Dated: June 9, 2005" received November 9, 2005.

Claims 1-23 and 47-70 were previously withdrawn from consideration as being drawn to a nonelected invention. With respect to the independent claims 24 and 71, the Applicant demonstrated to the Examiner's satisfaction that the 35 U.S.C. 102(b) and 35 U.S.C. 103(a) rejections over the references of Lieber et al. (6,743,408 B2), Colbert et al. ( 2002/0084410 A1), and Merkulov et al. (2002/0117951), are not applicable to the Applicant's invention.

With respect to claims 24 and 71, Lieber et al., Colbert et al., Merkulov et al., as well as any other prior art, fail to disclose an apparatus, comprising a cantilever structure including, in combination with other recited features of the claim limitations: a substrate including a cantilever body; and a substantially vertically aligned, with respect to a plane of the cantilever body, elongated nanostructure coupled to the cantilever body.

Therefore, the independent claims 24 and 71 are allowed. The dependent claims 25-46, and 72-84 and 86-95, are allowed by virtue of their dependence upon claims 24 and 71, respectively.

Art Unit: 2881

The claim objections as spelled out on pages 3-6 of the “June 9<sup>th</sup> Office Action” are withdrawn after consideration of the explanations provided by the Applicant and the cancellation of claim 85.

***Conclusion***

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (571) 272-2484. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John R Lee can be reached on (571) 272-2477. The central fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Nikita Wells".

Nikita Wells, Primary Examiner

Art Unit 2881

March 13, 2006